From: Dan Barthel
To: Microsoft ATR
Date: 1/26/02 11:14am
Subject: Proposed Microsoft Settlement

Sirs,

I believe that the proposed settlement agreement between Microsoft and the DOJ is woefully inadequate. Having been found guilty of major antitrust violations, concrete sanctions and proactive remedies need to be applied. My suggestions are those of a technologist, not a lawyer. These views have evolved over years of frustration trying to build cross platform applications for Windows and the Macintosh. After years of working with Microsoft, I am certain that they will never willingly comply with the following suggestions. Thus, these sorts of concrete remedies must be imposed by the court.

1. The ruling specifically mentioned Microsoft's predatory behavior regarding Java, Netscape Navigator, and Apple Quicktime, and for that matter the Real Player. An appropriate remedy would be to have Microsoft ship each of those products as supplied by the originator of the package with every copy of the Windows operating system. An example of Microsoft arrogance was the unilateral decision to stop shipping Java with Windows XP. There was no technical reason to do this, but the business reason was to again cause disruption and frustration at the consumer level for easy access to non-Microsoft technologies. The rational for this suggestion is having caused harm, repair the harm.
2. Microsoft must supply all current and past file formats for their layered applications to anyone who requests them. These formats should be documented fully so that independent developers can access the binary data for Microsoft Office and all other applications which use a proprietary file format. Microsoft should be specifically prohibited from removing backward file compatibility to existing file formats as a means of insuring interoperability. Any proposed changes must be made publicly available at least six months prior to release of products incorporating these changes.
3. Microsoft must supply documentation to all wire protocols for access to system functions, including, but not limited to: SQL Server, Message Queue, Transaction Server, Directory Services, and File Sharing. These protocols must be made freely available to anyone. Any proposed changes must be made publicly available at least six months prior to release of products incorporating these changes.
4. Microsoft must be ordered to comply with, and not extend, W3C standards. Browser features not part of the W3C XML, XSL, HTML and DHTML specifications must be removed from current products. This point is extremely important, as abuse of standards in this area was used effectively by Microsoft to win the browser war with Netscape. Microsoft has also demonstrated the ability to inhibit interoperability with the changes made to the open Kerbros standard, and with "creative" changes to the SQL-99 standard. This is one of Microsoft's favorite tactics to

close doors of interoperability.
5. Microsoft must be ordered to implement comparable and compatible feature sets for cross platform products. In particular, the IE browser for the Macintosh must be improved to the full feature set of Windows-XP.
6. Access to source code must be granted to all, particularly the open source community, not a select few as is the case in the proposed settlement. As written, the current agreement will allow Microsoft to remain a king maker with selected partners.
7. Microsoft should be forced to drop all partnerships and alliances with other companies. All companies must have equal access to Microsoft technologies. Early access of information, if available, must be made available to all interested parties. Non-disclosure information to 3rd parties should be prohibited, and made freely available to all.
8. Volume discounting should be prohibited. One price to all. Period, the end.
9. Bundled pricing should be prohibited. Office should cost the same, with or without a computer or operating license purchase.
10. Competitive upgrade pricing should be prohibited for all Microsoft products, even those that do not enjoy a monopoly position, as simple branding of any Microsoft product implies the monopoly.
11. Beta testing of new products must be made available to anyone who requests participation.

While these suggestions may seem highly technical, they are the kinds of things that can enable competition in the computer community. They are a) concrete, b)open access to all, particularly the open source community, c)encourage and enable the cross-platform interchange of information, d) enable the community at large free access to the data they own, now locked up inside proprietary file formats.

The current settlement relies on Microsoft's willing compliance with the proposed terms. In the past, Microsoft has proven itself adept at stepping through loopholes with great ease. What we need are concrete actions to open access to the technical information required to interoperate successfully with Microsoft products so that innovation and completion can take place. It is easy to judge compliance with the suggestions above. Microsoft should be found in violation if any of the above suggestions are not complied with in a very tight time period, as delay of information is effectively denial of information in this industry.

Microsoft will argue that no other company has to comply with these terms. But no other company has been found guilty of serious antitrust violations. And, as an interesting aside, many companies, Sun, Macromedia, Adobe, Apple, and others, already offer the kinds of access to technical information proposed above. These are not wild haired suggestions, but suggestions that already work.

Hopefully, you lawyers will get some solid technical input before letting Microsoft sneak out the door unfettered to develop in secret, change standards at will, and continue to frustrate interoperability. As to the pricing remedies, it is hard not to see the benefit of one price to all, one relationship with everyone.

Regards,

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